

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AMR MOHSEN,

No. C-09-01426 CRB (DMR)

Plaintiff,

**ORDER ON PLAINTIFF'S MOTION
FOR AN ORDER TO PRESERVE
DOCUMENTS**

v.

JOEL MOSS, *et al.*,

Defendants.

On February 8, 2013, *pro se* Plaintiff Amr Mohsen filed an Expedited Motion for a Court Order to the Liquidators of Howrey Simon to Preserve Documents. [Docket No. 55 (“motion for an order to preserve documents”).] In his motion, Plaintiff sought an order to preserve certain documents directed to the liquidator of Howrey Simon, the law firm that represented Plaintiff’s former company in the civil actions. Howrey Simon has dissolved, and another firm, Diamond McCarthy, LLP, is handling its files in bankruptcy. The documents at issue are those covered by protective orders in the civil actions *Aptix Corp., et al v. Quickturn Design Systems*, No. C-98-00762-WHA and *Aptix Corp. v. Quickturn Design Systems*, No. C-96-20909-JF.

On February 14, 2013, the court denied Plaintiff’s motion for an order to preserve documents without prejudice on the grounds that Plaintiff had not submitted competent evidence regarding the location of the documents at issue and whether they were in imminent danger of destruction. [Docket No. 56.] On February 28, 2013, Plaintiff submitted the declaration of attorney Mark

1 Zilversmit, in which Mr. Zilversmit states that he has been in contact with the Howrey Simon
 2 “wind-down team” regarding the documents at issue. [Docket No. 57 (Decl. of Zilversmit, Feb. 21,
 3 2013).] According to Mr. Zilversmit, Diamond McCarthy, LLP is in possession of the documents
 4 and intends to start destroying the files “sometime between March 15 and April 15, 2013” absent a
 5 court order preventing their destruction. (Decl. of Zilversmit, ¶ 5.)

6 In light of these facts, it appears that documents potentially relevant to this matter are in
 7 imminent danger of destruction. The court is inclined to grant Plaintiff’s motion and issue an order
 8 directing Diamond McCarthy, LLP to take all necessary steps to preserve the documents covered by
 9 the protective orders in *Aptix Corp., et al v. Quickturn Design Systems*, No. C-98-00762-WHA and
 10 *Aptix Corp. v. Quickturn Design Systems*, No. C-96-20909-JF. However, the court will allow
 11 Diamond McCarthy, LLP an opportunity to object to its issuing such an order. Any objections shall
 12 be filed by **no later than March 22, 2013**. Diamond McCarthy, LLP shall not destroy any of the
 13 documents in question pending the court’s ruling on any objections.

14 **Plaintiff shall immediately serve a copy of this order on Diamond McCarthy, LLP and**
 15 **file a proof of service.**

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17 IT IS SO ORDERED.

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19 Dated: March 6, 2013

